FROM THE COMMITTEE ON
MODEL CIVIL JURY INSTRUCTIONS

The Committee solicits comment on the following proposal by June 1, 2010. Comments may be sent in writing to Timothy J. Raubinger, Reporter, Committee on Model Civil Jury Instructions, Michigan Hall of Justice, P.O. Box 30104, Lansing, MI 48909-7604, or electronically to MCJI@courts.mi.gov.

PROPOSED

The Committee proposes to amend the definition of proximate cause because, as presently worded, the second component of the definition can be understood by a jury as meaning that the specific injury suffered must be a natural and probable result of the negligent conduct, whereas all that is required is that the injury fall within the category of injury that is a natural and probable result of the negligent conduct. To convey the distinction the committee has added the words "of a type that is." Note the language in the present Note on Use, which says, "The exact damages need not have been foreseen so long as the results are a natural and probable consequence of the defendant's conduct. It is sufficient that the ordinary prudent person ought to have foreseen or anticipated that damage might possibly occur. *Luck v Gregory*, 257 Mich 562; 241 NW 862 (1932); *Clubfoot v St Clair Tunnel Co*, 221 Mich 113; 190 NW 759 (1922)."

M Civ JI 15.01 Definition of Proximate Cause

When I use the words "proximate cause" I mean first, that the negligent conduct must have been a cause of plaintiff's injury, and second, that the plaintiff's injury must have been of a type that is a natural and probable result of the negligent conduct.

Note on Use

This definition should accompany instructions which use the term "proximate cause."

When a defendant presents evidence that the conduct of a person other than the plaintiff or force was a proximate cause, M Civ JI 15.03 and the appropriate instruction from M Civ JI 15.04, 15.05 and 15.06 should be given in addition to this instruction.

Comment

Proximate cause, at the minimum, means a cause in fact relationship. *Glinski v Szylling*, 358 Mich 182; 99 NW2d 637 (1959). In addition, the causal connection between the

defendant's conduct and the occurrence which produced the injury must have some practical limitation, variously expressed in terms such as "natural," "probable," "direct," or "reasonably anticipated." *See Van Keulen & Winchester Lumber Co v Manistee & N R Co*, 222 Mich 682; 193 NW 289 (1923); *Woodyard v Barnett*, 335 Mich 352; 56 NW2d 214 (1953); and *Fisk v Powell*, 349 Mich 604; 84 NW2d 736 (1957), all approved in *Sutter v Biggs*, 377 Mich 80; 139 NW2d 684 (1966). The exact damages need not have been foreseen so long as the results are a natural and probable consequence of the defendant's conduct. It is sufficient that the ordinary prudent person ought to have foreseen or anticipated that damage might possibly occur. *Luck v Gregory*, 257 Mich 562; 241 NW 862 (1932); *Clumfoot v St Clair Tunnel Co*, 221 Mich 113; 190 NW 759 (1922). Proximate cause "normally involves examining the foreseeability of consequences, and whether a defendant should be held legally responsible for such consequences." *Skinner v Square D Co*, 445 Mich 153, 163 (1994).

History

M Civ JI 15.01 is a revision of SJI 15.01.
Amended September 1980, October 1988, _____, 2010.

The Michigan Supreme Court has delegated to the Committee on Model Civil Jury Instructions the authority to propose and adopt Model Civil Jury Instructions. MCR 2.516(D). In drafting Model Civil Jury Instructions, it is not the committee's function to create new law or anticipate rulings of the Michigan Supreme Court or Court of Appeals on substantive law. The committee's responsibility is to produce instructions that are supported by existing law.